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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:
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DITECH HOLDING CORPORATION, <i>et al.</i>,	:
	:
Debtors.¹	:
	:
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Chapter 11
Case No. 19-10412 (JLG)
(Jointly Administered)

**PLAN ADMINISTRATOR'S RESPONSE
TO MARY FARRIER'S MOTION FOR CONSIDERATION**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

On May 12, 2020, a "Motion for Consideration" filed by Mary J. Farrier was entered on the docket as ECF No. 2337 (the "**Motion**"). The Plan Administrator² for the Wind Down Estates of Ditech Holding Corporation (f/k/a Walter Investment Management Corp.) and its

¹ The Wind Down Estates, along with the last four digits of their federal tax identification number, as applicable, are Ditech Holding Corporation (0486); DF Insurance Agency LLC (6918); Ditech Financial LLC (5868); Green Tree Credit LLC (5864); Green Tree Credit Solutions LLC (1565); Green Tree Insurance Agency of Nevada, Inc. (7331); Green Tree Investment Holdings III LLC (1008); Green Tree Servicing Corp. (3552); Marix Servicing LLC (6101); Walter Management Holding Company LLC (9818); and Walter Reverse Acquisition LLC (8837). The Wind Down Estates' principal offices are located at 1100 Virginia Drive, Suite 100, Fort Washington, Pennsylvania 19034.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the confirmed *Third Amended Joint Chapter 11 Plan of Ditech Holding Corporation and its Affiliated Debtors* (the "**Plan**") (ECF No. 1326)

debtor affiliates (excluding Reorganized RMS) (collectively, the “**Wind Down Estates**”), hereby responds to the Motion.

PRELIMINARY STATEMENT

1. In her one paragraph Motion, Ms. Farrier explains that as a result of her “age and illness” the Court should order Ditech to waive the balances of two mortgages of Ms. Farrier that Ditech previously owned and serviced. While the Plan Administrator is sympathetic to Ms. Farrier’s personal circumstances as set forth in the Motion, as Ms. Farrier acknowledges, neither of these mortgages are currently owned or serviced by Ditech. *See* Motion at 1. That fact is dispositive of Ms. Farrier’s Motion, which should be denied.

FACTUAL BACKGROUND

2. In December 2013, Mary Farrier entered into a mortgage with Green Tree Financial LLC (“**Green Tree**”) as security for collateral located at 3578 Dick Street, Cincinnati, OH 45220. *See* Farrier Chapter 7 Petition at 28, 1:17- bk-12858 (S.D. Ohio Bankr., Aug. 3, 2017) (Dkt. No. 1). In August 2014, Ms. Farrier entered into a mortgage with Green Tree as security for collateral located at 5207 Ebersole Ave, Cincinnati, OH 45227. *Id.* at 19. Green Tree changed its name to Ditech Financial LLC (“**Ditech**”) on August 31, 2015. Ms. Farrier alleges that Ditech sent her an erroneous foreclosure letter in 2016, causing her to file for bankruptcy in August 2017 (the “**Farrier Bankruptcy**”). *See* Farrier Complaint, *Farrier v. Leicht*, 19-CV-00588-TSB-KLL (S.D. Ohio, July 22, 2019) (Dkt. No. 1) (the “**Ohio Action**”). In the course of the Farrier Bankruptcy, the Farrier Bankruptcy trustee, pursuant to an order by the Ohio Bankruptcy Court, seized and sold a separate piece of property, located at 1095 North Bend Road, Cincinnati, Ohio 45224 (the “**Seized Property**”) which Ms. Farrier alleges was unlawful. *Id.* at 5-7.

3. On July 22, 2019, Ms. Farrier filed a lawsuit seeking money damages against Ditech, the Farrier Bankruptcy trustee, the United States Bankruptcy Court for the Southern

District of Ohio, and the Honorable Beth J. Buchanan of the United States Bankruptcy Court for the Southern District of Ohio in connection with the seizure and sale of the Seized Property by the Farrier Bankruptcy trustee. *Id.* Ms. Farrier seeks, from Ditech, money damages of \$5 million. *Id.* at 27. On January 28, 2020, the Magistrate Court in the Ohio Action recommended the dismissal of Ms. Farrier's Ohio Action and on May 12, 2020 the District Court adopted the recommendation, dismissing the action. *See* Ohio Action Dkt. Nos. 25 and 34. Ms. Farrier filed a notice of appeal on May 19, 2020. *Id.* at Dkt. No. 36. Thus, despite the Plan Injunction, Ms. Farrier continues to actively litigate her case in Ohio.

4. The Ohio Action was therefore included on the Plan Administrator's *Third Omnibus Motion to Enforce Injunctive Provisions of Plan and Confirmation Order* (the "**Third Omnibus Injunction Motion**") (ECF No. 1946). This action had previously been included on the Plan Administrator's *Omnibus Motion to Enforce Injunctive Provisions of Plan and Confirmation Order* (ECF No. 1688) but was subsequently adjourned while the Debtors confirmed that there were no "stay" or injunction issues" due to Ms. Farrier's prior personal bankruptcy. *See* Third Omnibus Injunction Motion, fn. 3. Farrier then submitted the two, substantively identical, objections, dated December 30, 2019 and January 27, 2019. *See* ECF Nos. 1778 and 1796. At the May 20, 2020 omnibus hearing, and in the Court's subsequent order, Ms. Farrier's objections were overruled and the Third Omnibus Injunction Motion was granted. *See* ECF No. 2459.

5. The ownership and servicing of Ms. Farrier's mortgage accounts was transferred to Shellpoint Mortgage Servicing, LLC ("**Shellpoint**"), on November 1, 2019 and January 1, 2020, which she acknowledges in her Motion.

ARGUMENT

6. Ms. Farrier's Motion appears to ask that Ditech provide her with the "consideration of wa[i]ving the two Mortgage balances." In the following sentence, Ms. Farrier acknowledges that "[t]hey transferred one of my Mortgages to Shellpoint Mortgage . . . the other one to NewRez." Even if the relief were otherwise legally appropriate, Ditech cannot provide Ms. Farrier with the relief for which she is asking because Ditech no longer owns or services her accounts and hasn't for more than six months. Ditech cannot waive payments on mortgages it does not own or service. Ms. Farrier's Motion is thus moot. *See E. Sys., Inc. v. W. 45th St. Indus. Condos. Inc. (In re E. Sys., Inc.)*, 1991 WL 90733, at *4 (S.D.N.Y. May 23, 1991) (noting that the "the actual disposition of property . . . may render moot an equitable claim as to the property" and collecting cases).

7. In the letter attached to her Motion, Ms. Farrier asserts that "Ditech want to get out of the damages they cause me through chapter 11, they still want me to pay them." This appears to be a reference to the injunction provisions in Section 10.5 of the confirmed Plan (the "**Plan Injunction Provisions**") and the required dismissal of her claims for monetary relief in the Ohio Action. Although the Plan Injunction Provisions, as found by the Court, do require Ms. Farrier to dismiss her claims in the Ohio Action for monetary relief, the confirmed Plan does not require the Wind Down Estates to provide separate consideration in exchange for compliance with the Plan Injunction Provisions. Moreover, Ditech no longer owns or services Ms. Farrier's accounts and is not seeking any payment from her.

8. Finally, if Ms. Farrier's Motion is attempting to obtain monetary relief from the Wind Down Estates, her motion is not an appropriate mechanism. *In re Ephedra Prod. Liab.*

Litig., 329 B.R. 1, 7 (S.D.N.Y. 2005) (“the only appropriate way to assert a claim against a debtor’s estate is through the timely filing of a properly executed proof of claim”).

9. In sum, Ditech no longer owns or services her accounts, and therefore is not capable of providing the relief she seeks in her Motion. In addition, the Motion is also procedurally and Motion is also substantively improper.

CONCLUSION

The Plan Administrator respectfully requests that this Court deny the Motion.

Dated: June 10, 2020
New York, New York

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